



FR-4915-01

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

AGENCY: Surface Transportation Board.

ACTION: 30-day notice of request for approval: Statutory Licensing and Consolidation Authority.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3519 (PRA), the Surface Transportation Board (STB or Board) gives notice that it has submitted a request to the Office of Management and Budget (OMB) for approval of the information collection required from those seeking licensing authority under 49 U.S.C. 10901-03 and consolidation authority under §§ 11323-26. Under these Title 49 provisions, rail carriers and non-carriers are required to file an application with the Board, or seek an exemption (through petition or notice) from the full application process under § 10502, before they may construct, acquire, or operate a line of railroad; abandon or discontinue operations over a line of railroad; or consolidate their interests through a merger or common-control arrangement. The Board previously published a notice about this collection in the Federal Register on December 12, 2011, at 76 FR 77312-14 (60-day notice). That notice allowed for a 60-day public review and comment period. No comments were received.

The information collection for which approval is sought is described in detail below. Comments may now be submitted to OMB concerning: (1) the accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the

information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether this collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility.

DESCRIPTION OF COLLECTION

Title: Statutory Licensing and Consolidation Authority.

OMB Control Number: 2140-00##.

STB Form Number: None.

Type of Review: Existing collection in use without an OMB control number.

Respondents: Rail carriers and non-carriers seeking statutory licensing or consolidation authority or an exemption from filing an application for such authority.

Number of Respondents: 106.¹

Estimated Time Per Response: Between 5 hours and 300 hours, depending on the type of request and complexity of the circumstances surrounding request for authority (based on actual survey of respondents).

Frequency: On occasion.

¹ In Fiscal Year (FY) 2011, there were 177 filings under 49 U.S.C. 10901-03 and 11323-26. See *Table – Number of Responses in FY 2011*. However, approximately 40% of the filings were additional filings submitted by railroads that had already submitted filings during the time period. Therefore, the number of respondents is approximately 40% less than the number of filings.

Table – Number of Responses in FY 2011.

Type of Filing	Number of filings under 49 U.S.C. 10901-03 and 11323-26
Applications	3
Petitions*	18
Notices*	156

* Under § 10502, petitions for exemption and notices of exemption are permitted in lieu of an application.

Total Burden Hours (annually including all respondents): 4,317 hours (sum total of estimated hours per response X number of responses for each type of filing).

Table – Estimated Hours Per Response:

Type of Filing	Number of Hours Per Response under 49 U.S.C. 10901-03 and 11323-26
Applications ²	524 hours
Petitions*	58 hours
Notices*	19 hours

² Because most respondents seek authority under the Board's expedited exemption process, rather than the more burdensome application process, the sample size for applications filed under §§ 10901-03 and 11323-26 is small. For example, under these provisions, only 3 applications were filed with the Board during the FY 2011, all of which were reported by the industry as routine and noncontroversial. In the 60-day notice, the Board reported these numbers as they were provided by industry, explaining in a footnote that the available survey data appeared to understate the substantial time and cost often associated with the application process. Since that time, the Board has compiled additional data and has adjusted the burden hours for applications to reflect the addition to the sample of a traditionally larger application that was filed in FY 2010. Thus, the hourly burden per application has been increased to more accurately reflect the differences among the types of filings.

* Under § 10502, petition for exemptions and notices of exemption are permitted in lieu of an application.

Total “Non-hour Burden” Cost (such as filing fees): \$669,950 (Sum of estimated “non-hour burden” cost per response X Number of Responses for each statutory section and type of filing).³

Table – Estimated “Non-Hour Burden” Cost Per Response.

Type of Cost	§ 10901	§ 10902	§ 10903	§§ 11323-26
Applications Filing Fees	Extension, Acquisition, etc. - \$7,200 Construction - \$74,500	\$6,200	\$22,100	Major - \$1,488,500 Significant - \$297,700 Minor - \$7,500
Petitions* Filing Fees	Extension, Acquisition, etc. - \$12,500 Construction - \$74,500	\$6,600	\$6,300	\$6,600--9,300
Notices* Filing Fees	\$1,800	\$1,800	\$3,600	\$1,100--\$2,400
Other Costs (i.e., copying and mailing)	\$450	\$450	\$450	\$450

* Under § 10502, petition for exemptions and notices of exemption are permitted in lieu of an application.

Needs and Uses: Under the Interstate Commerce Act, persons seeking to construct, acquire or operate a line of railroad, and railroads seeking to abandon or to discontinue

³ Because filing fees may vary within a particular statutory section, an average filing fee was used (except for applications under §§ 11323-26, where only minor transactions were filed in FY 2011).

operations over a line of railroad or, in the case of two or more railroads, to consolidate their interests through merger or a common-control arrangement are required to file an application for prior approval and authority with the Board. See 49 U.S.C. 10901-03 and 11323-26. Under 49 U.S.C. 10502, persons may seek an exemption from many of the application requirements of §§ 10901-03 and 11323-26 by filing with the Board a petition for exemption or notice of exemption in lieu of an application. The collection by the Board of these applications, petitions, and notices enables the Board to meet its statutory duty to regulate the referenced rail transactions.

DATE: Comments on this information collection should be submitted by August 15, 2012.

ADDRESSES: Written comments should be identified as “Paperwork Reduction Act Comments, Surface Transportation Board, Statutory Licensing and Consolidation Authority.” These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Patrick Fuchs, Surface Transportation Board Desk Officer, by fax at (202) 395-5167; by mail at OMB, Room 10235, 725 17th Street, N.W., Washington, DC 20500; or by email at OIRA_SUBMISSION@OMB.EOP.GOV.

FOR FURTHER INFORMATION, CONTACT: Marilyn Levitt, (202) 245-0269.

[Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877-8339.]

Relevant STB regulations are referenced below and may be viewed on the STB’s website under E-Library > Reference: STB Rules,

<http://www.stb.dot.gov/stb/elibrary/ref_stbrules.html>.

SUPPLEMENTARY INFORMATION: Under §§ 10901-03 and 11323-26, an

application is required to seek authority under these sections, unless an applicant receives an exemption under 49 U.S.C. 10502. Respondents seeking such authority from the Board must submit certain information required under the Board’s related regulations. The table below shows the statutory and regulatory provisions under which the Board requires the information collection that are the subject of this notice.

Table – Statutory and Regulatory Provisions

Certificate Required	Statutory Provision	Regulations
Construct, Acquire, or Operate Railroad Lines	49 U.S.C. 10901	49 C.F.R. pt. 1150
Short Line purchases by Class II and Class III Rail Carriers	49 U.S.C. 10902	49 C.F.R. 1150.41-45
Abandonments and Discontinuances	49 U.S.C. 10903	49 C.F.R. pt. 1152
Railroad Acquisitions, Trackage Rights, and Leases	49 U.S.C. 11323-26	49 C.F.R. pt. 1180

Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under § 3506(b) of the PRA, Federal agencies are required to provide, concurrent with an agency’s submitting a collection to OMB for approval, a 30-day notice and comment period, through publication in the

Federal Register, concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: July 16, 2012.

Jeffrey Herzig

Clearance Clerk

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